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Preface

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PREFACE

The rapid technological and social changes of the last half century have focused increased attention on the decision-making process of our government. Much of this attention has been directed at the individuals behind these major decisions, and especially at the electoral process through which these individuals attain their positions. While regulation of this electoral process technically began with the formation of our government, sweeping reform did not take place until the passage of the Federal Election Campaign Act of 1971, as amended in 1974, 1976, and 1979.

The increase in election law legislation in the 1970s, spawned in part by the nation's concern over the abuses highlighted by Watergate, has thrust the field of Election Law into the political and legal limelight. Certain topics have fostered extensive legal debate and discussion. Because campaign finance legislation has perhaps created the greatest amount of controversy, this issue of the *North Dakota Law Review* features a number of articles which delineate the problems engendered by the use of money in campaigns. Apportionment, ballot access, ballot position, postal rates in election campaigns, and the validity of non major party candidacies are also covered in this symposium.

An attempt has been made to cover a variety of topics in this symposium. Many raise constitutional issues that will almost invariably be presented to the courts before the next presidential election. Other topics, such as apportionment, focus on more practical problems which legislatures must resolve. The balance is completed by articles that raise provocative theoretical issues, including the continued desirability and feasibility of a two-party system in American politics.

The symposium's Introduction is written by former United States Senator Eugene McCarthy and John Armor. Mr. McCarthy is a three-time presidential candidate and continues to participate in politics. Mr. Armor is a constitutional law scholar who has written extensively and who has represented several candidates in election law litigation. Mr. McCarthy and Mr. Armor provide some thought-provoking ideas on the continued vitality of the two-party system in our political process.

The symposium begins with articles by Richard Claude and

Judith Kirchoff, Douglas Patton, John Mueller and James Parrinello, and Alexander Bott. Professor Claude, of the Department of Government and Politics at the University of Maryland, and Judith Kirchoff, who is an organization consultant, discuss and analyze the compelling consequences of the use of independent expenditures in federal elections, and suggest possible solutions to eliminate the spectre of political debt allegedly created by such "independent" expenditures.

Douglas Patton, a noted scholar in the area of campaign finance, serves as the ex-officio designee from the United States House of Representatives on the Federal Election Commission. Mr. Patton details the history of the legislation concerning campaign finance regulation as applied to political party committees. His thesis is that this legislation, as interpreted in significant court decisions and by the Federal Election Commission, has rejuvenated the role that political parties play in the electoral process.

The next article was written through the combined efforts of John Mueller and James Parrinello, both of whom are partners in the California law firm of Dobbs & Nielsen. Mr. Mueller and Mr. Parrinello are the attorneys of record representing Citizens Against Rent Control in their case against the City of Berkeley. The case, now pending before the United States Supreme Court, concerns the constitutionality of limits on ballot measure contributions. The authors' thesis is that the reasoning of the *Buckley* and *Belotti* decisions mandates the conclusion that such limitations are unconstitutional. The article includes a section, supported by statistics, on the effect of expenditures in ballot measure campaigns in California since 1954.

Professor Bott, a faculty member of the University of North Dakota School of Law, provides an in-depth look at North Dakota's recently revised election law.

The remainder of the symposium is composed of student material. The first student work focuses on North Dakota's historical struggle with apportionment. The author concludes that the goal of achieving fair and equal representation remains an ideal in the state, and suggests that the creation of a reapportionment commission would be the most effective means of achieving that goal.

Another student work provides an interesting analysis of a federal court decision concerning reduced postal rates for the two major parties under the Postal Service Appropriation Act. The

postal scheme was held unconstitutional because it discriminated against non major parties and independent candidates. The author suggests that the decision may have significant implications for the political future of non-major parties and independent candidates.

The final student work analyzes the recent decision of the United States Court of Appeals for the Eighth Circuit in *McLain v. Meier*, involving a candidate's challenge of North Dakota's ballot access, ballot position, and ballot arrangement statutes. The author traces the history of the United States Supreme Court decision in these areas and examines the reasoning behind the circuit court's holding that the ballot access and ballot position statutes are unconstitutional.

The *North Dakota Law Review* is pleased to present a symposium on such a timely and important topic. It is hoped that the material contained herein will serve as a useful guide for both teachers and practitioners. The *North Dakota Law Review* thanks everyone involved for their efforts.

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Special Projects Editor

